

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  D.C.

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ANGEL MAYO-BOFFIL,

Petitioner,

vs.

T.C. OUTLAW,

Respondent.

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XTHOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

No. 04-2058-Ma/V

ORDER CORRECTING THE DOCKET
AND
ORDER GRANTING PETITION PURSUANT TO 28 U.S.C. § 2241

Petitioner Angel Mayo-Boffil, Bureau of Prisons inmate registration number 91171-098, who was, at the time, an inmate at the Federal Correctional Institution in Memphis, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on January 29, 2004.¹ The petitioner paid the habeas filing fee on July 29, 2004. The Court issued an order on September 27, 2004 that directed the respondent to file a response to the petition. The respondent filed a timely response on November 22, 2004 and a supplemental response on February 18, 2005.

The petition alleges that the petitioner is a Cuban national who arrived in the United States in 1980 as part of the Mariel boatlift. He has been in the custody of the Immigration and

¹ The Clerk is ORDERED to correct the docket to reflect the petitioner's current address, which is set forth in the certificate of service to the response. The Clerk is directed to ensure that this order is forwarded to the petitioner at his current address.

Naturalization Service and its successor, U.S. Immigration and Customs Enforcement ("ICE"), since 1998. An immigration judge ordered the petitioner's removal, but Cuba will not accept him.

Pursuant to the Sixth Circuit's decision in Rosales-Garcia v. Holland, 322 F.3d 386 (6th Cir.) (en banc), cert. denied, 539 U.S. 941 (2003), ICE has conducted a repatriation review under the procedures set out at 8 C.F.R. § 241.13 and has concluded that there is no likelihood that the petitioner, a Cuban national, can be removed in the foreseeable future. In its November 22, 2004 response, the respondent represents that, "[b]ased on that determination, ICE will grant immigration parole to Petitioner. As soon as Petitioner advises ICE where he intends to reside, ICE will finalize the arrangements for his release and supervision." Response to Petition, Seeking a Stay of Proceedings, filed Nov. 22, 2004, at 1. In a footnote, the respondent explained that the petitioner "apparently does not have anywhere to go when he is released. ICE is in contact with the Public Health Service in an effort to find a residential placement for him." Id. at 1 n.1.

In his supplemental response, which was filed on February 18, 2005, the respondent notified the Court that petitioner was released to a halfway house on immigration parole on February 14, 2005 under conditions that required psychological counseling, including anger management counseling and sexual offender treatment.² Accordingly, respondent suggested that the writ be granted but

² In its original response to the petition, the respondent also sought a stay, the supplemental response concedes that the Supreme Court's decision in Clark v. Martinez, 125 S. Ct. 716 (2005), renders that application moot.

conditioned on petitioner's continued compliance with the terms of his parole. Supplemental Response to Petition, filed Feb. 18, 2005, at 2.

Accordingly, the petition pursuant to 28 U.S.C. § 2441 is GRANTED. The petitioner shall be released under parole supervision of ICE, subject to the conditions of supervision set forth in the decision issued by ICE on or about January 28, 2005, a copy of which is attached to the supplemental response filed by the respondent on February 18, 2005.

IT IS SO ORDERED this 29th day of November, 2005.

A handwritten signature in black ink, appearing to read 'S. H. Mays, Jr.', with a long horizontal stroke extending to the right.

SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 11 in case 2:04-CV-02058 was distributed by fax, mail, or direct printing on December 5, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT